



JUDGE SCHEINDLIN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GABRIELA SANTANA,

Plaintiff,

-against-

POM RECOVERIES, INC.,

Defendant(s).

Civil Action No.:

COMPLAINT

DEMAND FOR JURY TRIAL

14 CV 1708

Plaintiff, GABRIELA SANTANA ("Plaintiff"), by and through her attorneys, M. Harvey Rephen & Associates, P.C., as and for her Complaint against the Defendant, POM RECOVERIES, INC. (hereinafter referred to as Defendant(s)), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action on her own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of §1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

PARTIES

2. Plaintiff GABRIELA SANTANA is a resident of the State of New York, residing at 13 Roosevelt Drive, West Haverstraw, New York 10993-1013.

3. Defendant POM RECOVERIES, INC. is a corporation duly organized and existing under the laws of the State of New York, with an office located at 85 East Hoffman Avenue, Unit 1, Lindenhurst, New York 11757-5047.

4. Plaintiff is a "consumer" as defined by the FDCPA, 15 USC §1692 a (3).

5. Defendant is a "debt collector" as the phrase is defined and used in the

FDCPA under 15 USC §1692a (6).

JURISDICTION AND VENUE

6. The Court has jurisdiction over this matter pursuant to 28 USC §1331, as well as 15 USC §1692 et seq. and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over the State law claims in this action pursuant to 28 U.S.C. §1367(a).

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

8. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "7" herein with the same force and effect as if the same were set forth at length herein.

9. Upon information and belief, Defendant, on behalf of a third-party, began efforts to collect an alleged consumer debt from the Plaintiff.

10. Upon information and belief, and better known to the Defendant, the Defendant began its collection efforts and campaign of communications with the Plaintiff by sending Plaintiff a mass produced series of collection notices on or about early 2013.

11. Plaintiff has reached the legal age of majority and is not a minor.

12. The aforementioned notices, in particular, notices dated February 7, 2013, April 11, 2013 and May 17, 2013 were addressed to Plaintiff "C/O PARENTS OR GUARDIANS."

13. As a consequence of Defendant's form of address, Plaintiff's father opened one of Plaintiff's notices and learned that his daughter was being contacted by a debt collector regarding an outstanding debt.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

14. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "13" herein with the same force and effect as if the same were set forth at length herein.

15. 15 USC §1692c(b) prohibits a debt collector from disclosing to a third party without permission from the consumer that the consumer is being contacted by a debt collector concerning a debt.

16. The Defendant violated 15 USC §1692c(b) by inaccurately addressing it's communications to Plaintiff in care of parents or guardians who reside in her home, thereby allowing Plaintiff's father to discover that Plaintiff was being contacted by a debt collector regarding a debt.

17. As a result of Defendant's neglect and carelessness in sending written communications to Plaintiff which were directed to a third party or parties and allowed such third party or parties to view the contents of Defendant's communications, Plaintiff suffered extreme shame, embarrassment and distress and according to 15 USC §1692k(a)(1), Defendant is liable to Plaintiff for damages sustained because of Defendant's failure to comply with §1692 et seq. of Title 15 of the United States Code (the FDCPA) and other violations of the FDCPA.

DEMAND FOR TRIAL BY JURY

18. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment from the Defendants as follows:

- A. For actual damages provided and pursuant to 15 USC §1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 USC §1692k(2)(A);
- C. For statutory damages provided and pursuant to 15 USC §1692k(2)(B);
- D. For attorneys' fees and costs provided and pursuant to 15 USC §1692k(a)(3);
- E. A declaration that the Defendant's practices violated the FDCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
March 7, 2014

Respectfully submitted,

By: 
M. Harvey Rephen, (MR3384), Esq.
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708 Third Avenue, 6th Floor
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Attorney for the Plaintiff GABRIELA SANTANA

To: POM Recoveries, Inc.
85 E. Hoffman Avenue, Unit 1
Lindenhurst, New York 11757-5047

(Via Prescribed Service)

Clerk,
United States District Court, Southern District of New York
(For Filing Purposes)

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